CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

February 7, 2000

H.R. 2366
Small Business Liability Reform Act of 2000

As ordered reported by the House Committee on the Judiciary on February 1, 2000

SUMMARY

CBO estimates that enacting this bill would have no significant impact on the federal budget. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply. H.R. 2366 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs would not be significant and thus would not exceed the threshold established in that act ($50 million in 1996, adjusted annually for inflation).

H.R. 2366 would limit the amount of punitive damages that may be awarded to a plaintiff against a small business to three times the plaintiff's compensatory damages, or $250,000, whichever is smaller. This limitation on a small business' liability would not apply in cases that involve misconduct by the defendant—including a crime of violence, terrorism, a hate crime, or intoxication.

The bill also would limit joint and several liability for noneconomic losses for small businesses to the proportion for which each defendant is responsible. Under current law, all plaintiffs in such cases are liable for up to 100 percent of the claimants noneconomic losses. In addition, H.R. 2366 would set new standards of product liability for product sellers, renters, and lessors that are small businesses.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

While some product liability cases are tried in federal court, the majority of such cases are handled in state courts. Based on information from the Administrative Office of the United States Courts, CBO estimates that enacting this bill would have no significant impact on the number of cases that would be referred to federal courts. Thus, we estimate that enacting H.R. 2366 would have no significant impact on the federal budget.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 2366 contains intergovernmental mandates as defined in UMRA, but CBO estimates that those mandates would not impose significant costs on state, local, or tribal governments. The bill would preempt state law by applying federal requirements to certain liability cases filed in state courts, and by subjecting state and local governments, as potential plaintiffs, to those requirements.

A state could go above H.R. 2366's cap on punitive damages only if it enacts a law following specific procedures set forth in the bill. Any state laws that set caps on punitive damages awarded to small businesses that are lower than those in the bill would not be preempted by H.R. 2366. In certain cases, as plaintiffs, state and local governments would be subject to the caps set on punitive damages and to the standards for providing the liability of product sellers and small businesses.

The bill also would define small business to include units of local government with fewer than 25 employees. Thus, in cases where such governments are civil defendants, the bill could provide a benefit in the form of protection from paying large punitive damages.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

CBO's estimate of the impact of this legislation on the private sector will be provided later in a separate statement.

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